
TEN-EIGHT

In Service for Arkansas Law Enforcement

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Court says citizens need not be informed of their right not to cooperate

by Vada Berger
Assistant Attorney General

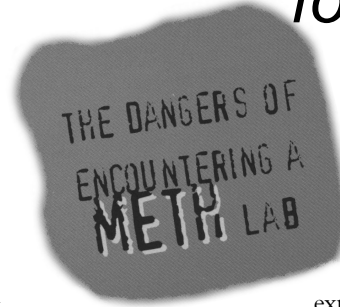
On February 4, 1999, three plain-clothed, but armed, Tallahassee police officers boarded a Greyhound bus, which was making a scheduled stop in Tallahassee on its way to Detroit. The officers' purpose was to conduct weapons and drug interdiction. One officer sat at the front of the bus and one at the rear, while the third, Investigator Lang, moved from the back of the bus toward the front, questioning passengers on the way. The officers left the bus aisles clear, spoke to passengers individually, made no general

announcement of their presence or purpose on the bus, did not brandish their weapons, and would not have prevented any passengers from leaving the bus, had they attempted to do so.

When Lang approached Christopher Drayton and Clifton Brown, who were seated together, he showed them his badge in order to identify himself as a police officer. He then told the two that he was a police officer conducting weapons and drug interdiction and asked them whether they had any bags on the bus. Both Drayton and Brown

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"M-E-T-H" spells "danger" for police



Arkansas consistently ranks among the top three states in the U.S. in per capita methamphetamine use, and authorities say the manufacturers are

expanding every day. In an effort to better equip law-enforcement officers in this ongoing war against drugs, Attorney General Mark Pryor recently distributed a video tape and educational pamphlet regarding the dangers of meth labs. Law-enforcement agencies and fire departments throughout the state received copies of "The Dangers of Encountering a Meth Lab."

Meth is easily manufactured, cheap, and highly addictive. As its use spreads, so do the dangers presented to first responders who may encounter a clandestine lab. The labs can be extremely volatile—presenting dangers from fire, toxic fumes, and hazardous wastes.

One of the most important safeguards to first responders is the ability to recognize the components of a clandestine lab. Suspicions that a meth lab is present can allow a first responder to secure the area and call for assistance in processing a scene containing hazardous materials.

For more information about "The Dangers of Encountering a Meth Lab," call (501) 682-3661.

Free computers help agencies search for lost children

The Bryant Police Department is one of the latest Arkansas law-enforcement agencies to receive free computer hardware and software from the National Center for Missing and Exploited Children.

Bryant's Captain Phillip Newcomb says his department applied for the LOCATER (Lost Child Alert

Technology Resource) system to give parents in that community the best possible service.

The LOCATER system links law-enforcement agencies in a nationwide network to spread the word about a missing or abducted child. Agencies can use LOCATER to quickly generate high-

(LOCATER continued on page 3)

A Legal Update from the Office of Attorney General Mark Pryor

Crime lab imposes new standards

The Arkansas State Crime Laboratory now has new standards for agencies to follow when submitting evidence. These standards recently went into effect and are being imposed as part of the crime lab's effort to achieve accreditation through the American Society of Crime Laboratory Directors/LAB.

Evidence that is hand-delivered to the crime lab, but which does not meet the necessary requirements, will not be accepted. Evidence that is mailed, but which does not meet necessary requirements, will be held until such time as a representative of the submitting agency corrects the problem.

Agencies with questions or problems regarding the new submission process and procedures may call (501) 227-5747 or E-mail the crime lab at evidencereceiving@ascl.state.ar.us.

The following definitions and tips for submitting evidence may be helpful to law-enforcement agencies:

Acceptable evidence containers

- All evidence must be placed inside an approved evidence container for storage while at the Arkansas State Crime Laboratory unless the size or shape of the item makes this impossible.
- All containers used to transport and store evidence must be made of suitable material for the placement of bar-code labels and marking with a permanent-type marker.
- All evidence containers, except those for biological samples, must conform to the following standards:
 - ✓ Envelopes must measure between 5"x 7" and 10"x 15".
 - ✓ Boxes cannot be any larger than 15"x 24"x 46", except firearm boxes, which shall measure 4 1/2"x 9 1/2" x 60" or less.
 - ✓ A paper sack will be accepted as long as it is at least 5"x 7".
 - ✓ Whenever practical, containers should weigh 25 pounds or less.
- Suitcases, duffle bags, backpacks, knap sacks, pillow cases, garbage bags, or other similar containers are not acceptable evidence containers.

Properly sealed containers

A container will be considered properly sealed if:

- the condition of the evidence container prevents the contents from readily escaping;
- opening the container would result in obvious damage or alteration to the container or its tape seal; and
- the evidence bears a proper seal, which includes the initials or other identification of the person sealing the evidence.

Tamper-proof seals

A seal is considered to be tamper proof when it will be destroyed or altered if tampering occurs, or—in the case of filament tape—the substrate fails.

Properly packaged sharps

Needles, syringes, knives, ice picks, or other sharp objects are to be packaged in a puncture-proof container, and the outside of the package shall be marked with the terminology "**danger – sharp object**" in order to protect personnel who handle this type of evidence. These containers are not supplied by the crime lab.

Evidence which has been tested or no longer needs to be tested should be promptly picked up by the submitting agency.

Tips for submitting evidence

- Use only the submission sheets approved by the Arkansas State Crime Laboratory. Forms may be downloaded or copied by visiting www.accessarkansas.org/crimelab. Fill out all required fields.
- Submission sheets must be typed or legibly written. Illegible information will not be accepted.
- A submission sheet should be signed by the person actually submitting the evidence.
- The Arkansas State Crime Laboratory is not responsible for supplying materials necessary for evidence submission.
- All containers are to be sealed and initialed by the investigating officer or by the person making the submission (except for clan labs).
- Items requiring refrigeration (such as rape kits, blood, and urine samples) should be separated from items not requiring refrigeration.
- Adequate space should be left near the top of envelopes and on the ends of boxes for the crime lab's bar-code label. Information should not be covered by the label.
- Only one submission sheet should be completed per case. Should you have more items than space allows, use the supplemental sheet.
- Evidence that is mailed in should have the submission sheet on the outside of the package so that the officer's seal does not have to be opened until it is checked out of evidence-receiving by an analyst.
- All items going to the same section on each case should be packaged together, except for items requiring refrigeration.
- Fire debris or other evidence to be tested for ignitable liquids must be packaged in a well-sealed airtight container, such as a new paint can or canning jar.
- All clan lab evidence shall be packaged in containers that meet with the Illicit Lab section's approval: glass vials should be inside of plastic bottles, and in the case of suspected iodine, then wrapped in aluminum foil.
- All clan lab submissions must be carried in by hand, not mailed, and must remain unsealed until checked for safety by a chemist.

(COOPERATION continued from page 1)

pointed to a single bag. Lang asked whether he could check it. Brown said, "Go ahead." Lang checked the bag, but it contained no contraband. Noticing that Drayton and Brown were wearing heavy clothes despite the warm weather, Lang then asked them whether he could check their persons. During pat-down searches of both men, Lang discovered hard objects on their thigh areas, which were similar to drug packages he previously had discovered. A further search revealed that each man had duct taped plastic bundles of powder cocaine to his legs.

In their prosecution for various drug offenses, Drayton and Brown moved to suppress the cocaine on the ground that their consent to the pat-down search was invalid and, thus, the search violated their rights under the Fourth Amendment. In *United States v. Drayton*, the United States Supreme Court disagreed. As an initial matter, the Court held that Drayton and Brown's Fourth Amendment rights were not violated by Lang's randomly approaching them and asking them questions despite their being in the confines of a bus. In reaching this conclusion, the Court chiefly relied on a 1991 case, *Florida v. Bostick*, in which it had held that the Fourth Amendment permits police officers to approach bus passengers at random to ask questions and to request their consent to searches, provided that reasonable people would understand that they were free to leave or otherwise end their encounter with the police.

The Court then went on to hold that Drayton and Brown's consent to the pat-down searches was voluntary and, thus, in accordance with the Fourth Amendment, even though Lang did not inform them that they were free to refuse to allow the search. Again relying on its previous Fourth Amendment decisions, the Court made it clear that it had rejected "the suggestion that police officers must always inform citizens of their right to refuse when seeking permission to conduct a warrantless consent search." While noting that knowledge of the right to refuse consent was a factor to consider in determining whether a consent to search is voluntary, the Court emphasized that it was not a necessary prerequisite. Consideration of all of the facts in the case – including the fact that Lang asked both Drayton and Brown whether he could conduct a pat-down search – indicated that their consent was voluntary.

While noting that knowledge of the right to refuse consent was a factor to consider in determining whether a consent to search is voluntary, the Court emphasized that it was not a necessary prerequisite.

Opinion of the Attorney General

Opinion No. 2002-207
Illumination of vehicle license plates

Question: How should police officers interpret and enforce provisions of A.C.A. § 27-36-215, regarding illumination of vehicle license plates?

Opinion: The statute should be interpreted to mean that colored lights cannot be used to illuminate license plates, and that white lights must be used, but cannot be so bright as to render the license plate illegible at less than 50 feet.

LOCATER *continued ...*

quality posters of missing children and distribute electronic images to police departments throughout the state and country.

More than 150 agencies in Arkansas have applied to be part of the LOCATER system, with 65 already approved and up and running. Federal funding is making the LOCATER equipment available free of charge to agencies whose responsibilities include the investigation of missing or abducted children.

Bryant's Captain Newcomb says that LOCATER is one more tool for his agency to use for locating a missing child from the Bryant area.

The following is an example of how the LOCATER system may be used:

- A law-enforcement agency is notified of a missing child and obtains the child's photograph from a parent or legal guardian.
- The missing child is entered into the National Crime Information Center. LOCATER is launched and the user is guided through the process of generating a poster.
- High-quality color posters can be distributed at roll calls, incident-command posts, and to the public.
- Other LOCATER users will receive an audible and visual signal about the missing child.

For additional information about the LOCATER system, including an online application form, visit www.locaterposters.org, or call toll-free 1-877-446-2632 ext. 6389.

Captain Newcomb says he welcomes questions about LOCATER. You may contact him at pnewcomb@cityofbryant.com.

Have You Seen Me?

If you have information about these children, please call the Arkansas Missing Children Services Program at (501) 682-1020 or 1-800-448-3014 or the National Center for Missing and Exploited Children at 1-800-THE-LOST.



MARI TONGCO

Missing: may-31-2002
Missing From: Ozark, AR
Birth Date: oct-01-1999
Sex: Female
Eyes: Brown
Hair: Brown



MARIA TONGCO

Missing: may-31-2002
Missing From: Ozark, AR
Birth Date: may-13-2002
Sex: Female
Eyes: Brown
Hair: Brown



MARY TONGCO

Missing: may-31-2002
Missing From: Ozark, AR
Birth Date: jun-08-1997
Sex: Female
Eyes: Brown
Hair: Brown



MARIE TONGCO

Missing: may-31-2002
Missing From: Ozark, AR
Birth Date: jun-08-1997
Sex: Female
Eyes: Brown
Hair: Brown

October training

Missing and Abducted Children:
 A Survival Program for First Responders
 and Initial Investigators

Choose from three locations!

October 15
East Camden

October 16
Pocahontas

October 18
Springdale

Sponsored by:
 Arkansas Attorney General
 Mark Pryor

Registration:
 Call Rachel Ellis at (501) 682-3645

Police-People-Programs:
 Approaching the Challenges
 of Today and Tomorrow

October 23
9:30 a.m.—4:00 p.m.
Pine Bluff
Convention Center

Sponsored by:
 The Division of
 Aging and Adult Services

Topics:
 Community Options
 Understanding Olmstead
 Adult Abuse & Arkansas Law
 Consumer Fraud

Registration:
 (501) 682-9992 or
 marilyn.harrington@mail.state.ar.us

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